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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/240,147 05/10/94 DINKINS

26M1/0908

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G EDN001.C
EXAMINER
CHIN, W

ART UNIT PAPER NUMBER

2603

DATE MAILED: 09/08/94

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input checked="" type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-848. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 1, 35-47 are pending in the application.

Of the above, claims _____ are withdrawn from consideration.

2. ☒ Claims 2-34 have been cancelled.

3. ☐ Claims _____ are allowed.

4. ☒ Claims 1; 35-47 are rejected.

5. ☐ Claims _____ are objected to.

6. ☐ Claims _____ are subject to restriction or election requirement.

7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-848).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).

12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____; filed on _____.

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

EXAMINER'S ACTION

Art Unit: 2603

1. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

2. Claim 47 is rejected under 35 U.S.C. § 103 as being unpatentable over Martinez.

Martinez discloses a plurality of receive only subscribers (12) and facilities for communicating from the subscribers when moved from different geographic zones (cells) as seen in Fig. 2. Martinez also discloses that the transmitters of the subscribers is 1.5 milliwatt average at 300 baud, hence, the peak power is in the order of milliwatts. Each RCO (base station) covers a different zone of a geographically area (i.e. city). Martinez does not disclose the use of receive only receivers but this would have been obvious as Martinez disclose the use of two way transceivers for interactive communications, hence, if one did not want interactive communication, then providing only a receiver would be sufficient. Therefore, the use of receive only devices would have been obvious if interactive communication were not desired and transceivers would be used where interactive communications were desired.

Art Unit: 2603

3. Claims 1 and 35-46 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-15 of copending application Serial No. 07/966,414. Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant claimed invention is a variation of the claimed invention of the co-pending application wherein the base station is not explicitly recited as being a repeater but this would have been obvious in light of the function that the base station performs which including retransmission facilities..

This is a *provisional* obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.


The prior art cited disclose the use of a space satellite in conjunction with a television audience surveying system.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wellington Chin whose telephone number is (703) 305-4366. The examiner can normally be reached Tuesday - Thursday from 6:30 a.m. to 5 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas W. Olms, can be reached on (703) 305-4703. The fax number for this Group is (703) 305-9508.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4700.

W.Chin
(703)305-4366
9/6/94


WELLINGTON CHIN
PRIMARY EXAMINER
GROUP 2600